United Nations CAT/C/SR.1623

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
7 May 2018

Original: English

Committee against Torture
Sixty-third session

Summary record of the 1623rd meeting
Held at the Palais des Nations, Geneva, on Friday, 27 April 2018, at 10 a.m.

Chair: Mr. Modvig

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Fifth periodic report of Belarus (CAT/C/BLR/5; CAT/C/BLR/QPR/5)

1. *At the invitation of the Chair, the delegation of Belarus took places at the Committee table.*

2. **Mr. Ambrazevich** (Belarus), introducing his country's fifth periodic report, said that the Government had made great strides in its attempts to strengthen national legislation and uphold the provisions of the Convention. In 2015, it had taken note of the recommendations relating to the prevention of torture received during the second cycle of the universal periodic review and had incorporated the definition of torture into articles 128 and 394 of the Criminal Code. Steps had also been taken to investigate cases before the courts in which torture or ill-treatment had allegedly been used to obtain confessions.

3. The Principles of Crime Prevention Act had been amended in 2014 to incorporate additional measures aimed at combating domestic violence. The Government had also conducted national domestic violence awareness-raising campaigns and planned to adopt specific legislation against domestic violence in 2018. The Act on the Legal Status of Foreign Nationals and Stateless Persons had also been amended to incorporate guarantees of non-refoulement for foreign nationals who might face torture or ill-treatment if returned to their country of origin.

4. The Code on the Judicial System and the Status of Judges had been amended in 2017 to strengthen the independence of the judiciary. Between 2012 and 2017, 43 cases of torture or ill-treatment had been brought before the courts following complaints lodged by prisoners on remand and under sentence, all of which had been dismissed for lack of grounds. The number of offences recorded under article 426 (3) of the Criminal Code concerning the use of violence or cruel or degrading treatment by law enforcement officers had stood at 11 in 2012, 19 in 2013 and 25 in 2014.

5. Regular inspections of prisons and detention facilities had been carried out over recent years. In 2017, 1,641 inspections had taken place, which had led to the investigation of 1,469 violations of the law. Law enforcement officers had been subject to prosecution in 732 of those cases.

6. The Government recognized the importance of maintaining decent living conditions for prisoners and had amended the Detention Procedures and Conditions Act in 2016 to allow for closed-circuit television and other recording equipment to be used to monitor prison facilities and police stations. The Ministry of Internal Affairs also continued to work with NGOs to monitor detention conditions across the country.

7. The constructive dialogue with the Committee offered an excellent opportunity to strengthen the Government's efforts to uphold the provisions of the Convention and address the remaining obstacles to implementation. He looked forward to receiving the Committee member's comments and suggestions in that regard.

8. **Ms. Racu** (Country Rapporteur), while welcoming the references to acts of torture in articles 128 and 394 of the Criminal Code, asked whether the State party intended to define torture as a separate offence, in line with article 1 of the Convention, and guarantee that acts of torture were punishable by appropriate penalties in accordance with article 4 (2) of the Convention. She also wished to know what measures had been taken to condemn publicly the use of torture and make it clear that perpetrators and accomplices would be held responsible for their actions and punished accordingly. It would be particularly interesting to learn more about the State party's plans to establish an effective national human rights institution to monitor and prevent acts of torture or ill-treatment.

9. In the light of the numerous reports indicating that fundamental legal safeguards were frequently denied to persons taken into custody, she would welcome additional information on the measures adopted to ensure that such persons had prompt access to a lawyer and a doctor and had the right to contact family members from the very outset of

detention. What disciplinary action had been taken against law enforcement officers who failed to provide such fundamental legal safeguards to detained persons? She would particularly welcome clarification of the steps taken by the State party to improve access to medical care in police and prison establishments and to amend national legislation so that it permitted independent doctors to examine persons deprived of their liberty who alleged that they had been subjected to torture or ill-treatment. She wondered what was being done to ensure that all persons deprived of their liberty were registered promptly following their arrest and that their lawyers and family members had full access to the relevant detention records.

10. In the wake of reports that officers without identification badges had been present at peaceful assemblies held in September and November 2015, it would also be interesting to know what efforts had been made to ensure that all on-duty law enforcement officers, including riot police, complied with legislation requiring them to wear some form of identification. She would also appreciate further information concerning the measures taken to ensure that interrogations in all places of detention were routinely recorded or videotaped.

11. Referring to the list of persons who had the right to visit places of detention without the prior authorization of the prison authorities, she would be grateful for further information regarding the composition of that list and the process used to select candidates. Detailed information about the rights of those persons to interview inmates in private, to videotape or take photos during their visits and to issue recommendations concerning detention conditions would also be useful.

12. Noting the high rate of imprisonment in Belarus, she asked what measures had been taken to reduce prison overcrowding and bring detention conditions into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners. She would particularly welcome information regarding the percentage of persons currently held in pretrial detention, the minimum cell space per prisoner and the steps taken to improve conditions at the pretrial detention centre No. 1 in Minsk. In the light of the recent amendments to the Code of Criminal Procedure to establish non-custodial forms of detention, she wished to know what efforts had been made to promote the use of alternatives to preventive detention, such as bail or house arrest.

13. She wished to receive details of the capacity of the 20 temporary holding facilities that had been reconstructed. It was unclear whether the facilities were the responsibility of the Ministry of Internal Affairs or the Prison Department. Clarification on whether the reconstruction programme had taken into account the conditions set forth in the United Nations Standard Minimum Rules for the Treatment of Prisoners would be welcome.

14. The Committee was very concerned by reports of the poor conditions in most detention facilities. Sources had indicated that there were shortages of food and medicine and limited access to clean drinking water. The Committee would welcome data on prisoners living with tuberculosis or HIV and prisoners who used drugs. It wished to hear whether tuberculosis patients received proper treatment, including regular screenings. Details of the measures in place to prevent the use of drugs and the spread of communicable diseases, including HIV, would be appreciated. The implementation of the project to prevent and treat HIV/AIDS and the Stop TB Strategy were commendable developments; an update on the status of those initiatives would be welcome. The Committee would also be grateful for the delegation's comments regarding the treatment of persons with mental health issues being held in pretrial detention or serving prison sentences.

15. The Committee had received numerous reports of high levels of violence in prisons, including sexual violence and ill-treatment directed at homosexual inmates. Data on the number of violent incidents and cases of suicide and self-harm that had occurred in prisons during the reporting period and the measures taken to prevent such events would be welcome.

16. She wished to learn the average length of time prisoners spent in solitary confinement. It was unclear whether there was a mechanism available to allow prisoners to appeal against decisions on solitary confinement. Moreover, it would be useful to hear

about the efforts being made by the State party to improve the social reintegration of prisoners.

17. The absence of information about the recruitment and training of prison staff in the State party made it difficult to assess progress in that area. She would welcome an update on the number of staff working in prisons, including medical personnel, and on the steps taken by the authorities to improve the quality and level of staffing.

18. It would be helpful to receive additional information on the country's compulsory drug and alcohol rehabilitation centres, including the number of people detained there and the forms of treatment they received. It would be interesting hear about any plans to improve conditions in the facilities or to end to their use.

19. The Committee would welcome updated information on any measures taken to improve conditions of detention for women and girls, particularly with regard to the implementation of the provisions of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules). It was unclear whether women's prisons were overcrowded. It would be useful to receive details of the number of women and girls held in pretrial detention and the number of male staff employed in women's prisons. She would also like to hear how many complaints of sexual harassment had been made by female prisoners and what the outcome of the investigations into those complaints had been.

20. In the absence of official data on the number of minors in the justice system, she wished to know how many minors there were in pretrial detention or serving sentences. Information on the situation of children in young offender institutions, including whether they were subject to solitary confinement as a disciplinary measure. She wished to hear about any social rehabilitation, education or vocational programmes in place for juveniles in detention. It would be helpful to hear what specific action was being taken to establish a child protection system.

21. She would welcome a full account of the investigations of deaths in custody, in particular that of Mr. Ihar Barbaschynski, who had filed a complaint of police brutality in 2015 and had died in prison later that year. It would be interesting to hear the delegation's comments regarding the causes of deaths in custody and the measures introduced to prevent them. It was unclear why so few such cases were investigated.

22. Given the secrecy surrounding executions in the State party, the Committee would like to hear how many persons were on death row and receive information on the measures that had been taken to improve conditions for them. She would welcome an update on the Round Table on Legal Aspects of the Abolition of Death Penalty organized by the Council of Europe and held in Minsk in April 2018. It would be interesting to hear whether the State party was considering establishing a parliamentary working group on the death penalty and ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

23. With regard to refugees and migrants, she wished to learn whether any expulsions, returns or extraditions had taken place during the reporting period, including details of the countries to which individuals had been returned and the grounds for doing so. Information on the appeals mechanisms in place and the outcome of any appeals that had been filed would be welcome. It would also be helpful to hear whether the State party had provided diplomatic assurances in any cases of refoulement, extradition or expulsion.

24. In the light of reports that migrants in detention experienced difficult conditions, the Committee wished to know whether a national body was responsible for monitoring the situation of those held in temporary or pretrial facilities. Information on the number of migrants being detained in the State party and the mechanisms in place to protect them would be appreciated. An update on any action taken by the Government towards accession to the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons would be useful. The Committee wished to know whether the State party had, for any reason, rejected any requests for extradition by another State relating to individuals suspected of having committed acts of torture and subsequently

initiated criminal proceedings against them as a result. If so, she would be grateful for the status of such proceedings.

25. **Ms. Gaer** (Country Rapporteur), noting that only 10 of the 614 reports of torture or ill-treatment filed between 2012 and 2015 had resulted in charges being brought, said that she would be grateful for an update on the two cases that had been under preliminary investigation at the time of submission of the State party's report. She wished to learn whether any officials had been prosecuted under article 462 (3) of the Criminal Code during the reporting period and what the outcome of those prosecutions had been. She also wished to know how many complaints had been made to the Investigative Committee regarding acts of torture or ill-treatment committed by internal affairs officers during the reporting period and how many of those complaints had led to prosecutions and convictions.

26. It was reportedly the President who appointed — and could also dismiss — the Chair of the Investigative Committee and other senior members at both the central and the regional levels. In addition, complaints against officials were frequently referred back to the officials' own agencies and it appeared that, even in very clear cases, such as the death in custody of Igor Ptichkin in 2013, the Investigative Committee failed to follow up allegations of torture. She asked whether the State party was planning to strengthen the independence of the Investigative Committee. What other measures were planned to increase the effectiveness of that Committee's investigations into claims of torture and ill-treatment by officials, for example the setting up of a specialist investigation unit?

27. There appeared to be no legislation providing for the suspension or transfer of officials accused of torture or ill-treatment during the investigation, as a safeguard against interference in such investigations, and she would like to know whether the Government planned to adopt such legislation. Similarly, she understood that there was no mechanism to receive complaints of torture from persons deprived of their liberty; indeed, in many cases the administrators of places of detention reportedly sought to prevent inmates making such complaints. Were any measures being taken to create genuinely accessible, confidential and independent complaints mechanisms for persons deprived of their liberty?

28. The Committee would appreciate updated information on efforts to investigate and bring to justice those responsible for the disappearance of Viktor Gonchar, Anatoly Krasovsky, Yury Zakharenko and Dmitry Zavadsky, as it had requested in its questions to the State party. The Committee had been asking about those cases since the third periodic review of Belarus, in 2000, and there had been no progress in any of the investigations. The cases were seen by the international community as a test of the State party's commitment to reform and the rule of law: two of them had been brought before the Human Rights Committee, which had found violations by Belarus of article 7 of the International Covenant on Civil and Political Rights, and the Parliamentary Assembly of the Council of Europe had also called for the perpetrators to be brought to trial.

29. She had been disappointed to read the State party's reply to the Committee's request for an update on investigations into the allegations of torture made by Maya Abromchick, Alex Mikhalevich, Andrei Molchan, Vladimir Neklayaev, Alexander Otroschenkov, Pavel Plaska, Natalia Radina and Andrei Sannikov, namely that none of them had lodged claims of torture with the relevant bodies. She asked whether the Committee's concluding observations were not a sufficient basis for initiating an investigation, particularly where the allegations of torture had been so well publicized.

30. Noting that the Human Rights Committee had recently found a violation of article 7 of the Covenant in respect of Andrei Sannikov and had given a detailed account of the complainant's many attempts to lodge an official complaint of torture, she asked how it was possible for the State party to report to the Committee that it had not conducted an investigation because Mr. Sannikov had not brought any claims of torture before the supervisory bodies. More generally, she wondered what steps the State party was taking to make it possible for such complaints to be received and followed up by independent investigative mechanisms. Would the State party be implementing the recommendations of the Human Rights Committee in the Sannikov case?

31. The Committee had received reports of more recent cases of ill-treatment and torture in the context of arrests made following demonstrations in February and March 2017.

Officers of the State Security Committee in Minsk had allegedly subjected inmates to beatings, denial of water or medical treatment, and sleep deprivation, for example. She would like to know whether the State party had investigated those allegations, specifically the complaint submitted to the Minsk Procurator's Office by Tatsiana Reviaka concerning her arrest on 26 March and her treatment on police premises and the public complaint sent to the Procurator General by Ales Bialiatski seeking an official enquiry into all the allegations.

32. Judging from the information received from the State party, little progress seemed to have been made towards establishing an independent system for monitoring places of detention, notwithstanding the Committee's recommendations following the last periodic review. Even though new regulations had given the public oversight commissions the right to conduct confidential interviews with prisoners and civil society was represented on those commissions, according to information received, they could not carry out unannounced visits and were not entitled to visit temporary detention facilities, pretrial prisons or psychiatric hospitals, and their membership was controlled by the Ministry of Justice.

33. She would like to know whether the State party was planning to: strengthen the independence of the oversight commissions; permit monitoring bodies to conduct unannounced visits; allow independent NGOs, as well as the oversight commissions, to access places of detention; and permit access to temporary holding facilities and remand centres. She wondered how the State party ensured that the commissions could access all parts of the detention facilities they visited. In that connection, she noted that, in March 2018, Mikhail Zhamchuzhny had not been permitted to meet members of a commission visiting penal colony No. 9 in Horki, despite having made a formal request to do so, ostensibly because he was being held in a punishment cell for disciplinary purposes at the time: she would appreciate the delegation's comments on that allegation.

34. She wondered whether the Government would accept visits from the Working Group on Arbitrary Detention, the Special Rapporteur on torture or the Special Rapporteur on the situation of human rights in Belarus. She would be interested to know the reasons for the State party's rejection of a recommendation made following its 2015 universal periodic review to extend an open invitation to United Nations special procedures. Was the Government planning to ratify the Optional Protocol to the Convention against Torture and establish a national preventive mechanism? Was the Government considering recognizing the Committee's competence to receive individual communications under article 22?

35. The State party had provided disappointingly little information about its efforts on the matter of redress for victims of torture and ill-treatment under article 14 of the Convention. She would welcome up-to-date statistics on any redress granted since 2015, including compensation in respect of deaths in custody. She would also appreciate information on the State party's capacity to provide rehabilitation to victims of torture. She enquired whether, in the light of the Human Rights Committee findings of violations in the Krasovski and Zakharenko cases, the State party had complied with that Committee's decisions and whether redress had been provided to the family members, who had also been declared to be victims.

36. With regard to the independence of the judiciary, she welcomed the transfer by the State party of some judicial powers from the Ministry of Justice to the Supreme Court by means of amendments to the Code on the Judicial System and Status of Judges. It appeared, however, that the changes had not been sufficient to safeguard the judiciary's independence from the executive in practice. According to the Special Rapporteur on the situation of human rights in Belarus, the President retained the right to appoint, promote or demote any judge or prosecutor and could also order disciplinary sanctions against a judge without holding disciplinary proceedings, and that such an order was not subject to appeal. She would like to know whether the State party was taking any measures to further strengthen the independence of the judiciary, in particular with regard to appointments, dismissals and disciplinary matters.

37. Turning to the question of evidence obtained by means of torture, she asked whether the State party had any data on the number of criminal cases in which defendants had alleged that they had made false confessions as a result of torture and whether the State

party followed up on judges' responses in such cases. She would also appreciate receiving information about any cases in which a judge had ordered a medical examination in a case where a defendant had claimed to have made a confession as a result of torture or ill-treatment, or where a judge had declared a confession inadmissible on the grounds that it had been obtained by torture or ill-treatment.

38. The Committee had received information on the following three criminal cases in which defendants had alleged that they had been tortured but the judges had not pursued the matter: Kirill Smolyarenko, detained in Minsk in June 2015, and Arthur Evglevsky, detained in Minsk in February 2014, both of whom had obtained medical confirmation of ill-treatment; and Sergey Khmelevsky, who had been sentenced to death on the basis of a confession made after being beaten by officers of the Machulischy militia — he too had provided forensic medical confirmation of injuries consistent with blows from a blunt object. She would like to know whether investigations had been carried out into any of those cases.

39. With regard to the independence of lawyers, she said that she would appreciate an update from the State party on some of the cases raised in question 7 of the list of issues, regarding the disbarment of lawyers representing individuals involved in the December 2010 protests. Noting that the State party had stated in its report that two lawyers had been disbarred for refusing to represent Ms. Iryna Khalip, she asked whether any investigation had been made into the lawyers' claims that they had been harassed into resigning.

40. In the wake of the March 2017 protests, an extraordinary review of lawyers' licences had been carried out by the Ministry of Justice, as a result of which several of the lawyers for defendants in the "mass riots" cases had been obliged to undergo extraordinary recertification procedures. She would like to know whether the State party was taking any steps to review and reduce the power of the Ministry of Justice over bar associations in the State party in order to guarantee their independence.

41. The Committee remained seriously concerned about continuing reports of harassment and violence against human rights defenders and journalists, including attempts to deprive them of funding. Of particular concern were reports of the systematic harassment of human rights activists and journalists prior to protests in 2017, which included the detention of around 70 human rights defenders, the confiscation of newspapers and the blocking of two independent online media websites. She asked what measures the Government was taking to act on its commitment to encourage State cooperation with civil society organizations for the promotion and protection of human rights, set out in its interagency action plan on human rights. She asked whether the Government envisaged repealing article 193 (1) of the Criminal Code, which made participation in the activities of unregistered voluntary associations a criminal offence, and lifting the ban on such organizations. Turning to the responsibility of the State to protect citizens from violence by private persons and recalling that, since its consideration of the country report in 2011, the Committee had expressed concern about the persistence of domestic violence, she asked whether the State party could provide data on the outcome of the prosecutions of perpetrators of domestic violence during the reporting period. She would like information on the status of the bill to prevent domestic violence and wondered whether it would make domestic violence and marital rape criminal offences. She would appreciate an update on the number of "crisis rooms" that provided temporary shelter in certain social centres, the number of those offering long-term shelter to women and children who were victims of domestic violence, the number of people who had accessed those rooms and the available relevant training for law enforcement personnel and judicial officials. She would like information on investigations, if they were being carried out, into allegations of arbitrary arrests and malicious prosecutions of human rights defenders and journalists. She wondered whether the Government was investigating the cases of Mr. Zhamchuzhny, founder of the human rights organization Platforma, and Dzmitry Paliyenka, a young activist who opposed restrictions on cyclists, and the claims that they had been arbitrarily detained and subjected to ill-treatment. She also wished to know whether it was taking steps to implement the recommendations of the Human Rights Committee relating to Ales Bialiatski, President of the Viasna Human Rights Centre, for Belarus to re-register the organization, strike his conviction off the record and provide him with compensation. She asked what measures

would be taken to ensure that penalties were imposed on officials who harassed human rights defenders and journalists.

42. As recent reports suggested that the situation of trafficking in persons had not improved, information on the implementation of laws against trafficking in persons would be helpful. In the light of reports that there had been no convictions of traffickers from 2013 to 2016, she asked what data had been collected in 2017 and what steps were being taken to ensure cases of alleged trafficking were effectively investigated and prosecuted. She wondered whether data on redress or rehabilitation provided to victims of trafficking, on the use of the crisis rooms by such victims and on the provision of specialized rehabilitation services to child sex trafficking victims were available.

43. She would like updated figures, if available, on the number of cases in which lesbian, gay, bisexual and transgender persons had been subjected to violence or threats based on their sexual orientation or gender identity and on the number of complaints received and investigations undertaken into reports of torture and ill-treatment in the military, namely hazing. She asked whether any of those complaints had resulted in disciplinary action or prosecutions and whether steps had been taken to prevent torture and ill-treatment in the armed forces during the reporting period. She would also be grateful for an update on the status of the investigations into the deaths in 2017 of two soldiers, Artem Bastyuk and Alyaksandr Korzhych, who had submitted complaints of severe hazing.

44. **Ms. Belmir** said that the report of the Special Rapporteur on the situation of human rights in Belarus (A/HRC/35/40) had highlighted the lack of separation between the judiciary and the executive branch. The law provided for the replacement of judges on leave by either a retired judge or any other person who fulfilled the requirements for the position of judge. The executive branch alone determined what those requirements were, leaving open the possibility for arbitrary decisions to be made. In the light of reports that State security officers were not obliged by law to wear identity badges and of the lack of follow-up to complaints of ill-treatment by law enforcement officers, she wondered to what extent police officers fulfilled the requirement to present their badges when they placed persons under arrest.

45. **Mr. Hani** asked whether article 15 of the Mental Health Care Act of 7 January 2012 implied that a patient's rejection of society's generally accepted moral, cultural, political and religious values or other circumstances that were not directly related to his or her state of mental health could provide grounds, in law and in practice, for forced detention or medical treatment. Alternative reports showed that the committal of Igor Postnov and Alexander Lapitsky to psychiatric hospitals constituted punitive, and not medical, measures. He would be grateful for further information on those cases. He wondered whether people could be punished by means of involuntary hospitalization for their rejection of society's values. The membership of the national public oversight commission attached to the Ministry of Justice included associations which, while worthy, were not specialized human rights organizations. He therefore asked whether the Government intended to grant the applications of specialized organizations to ensure the monitoring of ill-treatment in places of deprivation of liberty.

46. **The Chair** asked how many full-time medical professionals were employed in the prison system and how many psychiatrists were available on a full-time basis in prisons. He said he would like information on routine examinations for new prisoners and the procedures followed after allegations of torture were made or signs of torture were identified by doctors. He wondered whether doctors were obliged to report such findings for further examination and to which body. It would also be useful to know the number of cases of torture or ill-treatment that had been submitted to the investigating bodies in the reporting period. He asked how many doctors were available to clients in secure institutions for tuberculosis, rehabilitation centres for alcoholics, social care homes and psychiatric institutions and what measures were taken to ensure that clients were treated humanely. He would like detailed information on the training on the Convention and Istanbul Protocol provided to medical professionals, law enforcement personnel, security and prison officials, judicial officers and others involved with the custody, interrogation and treatment of prisoners.

The meeting rose at 12.30 p.m.